

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: PRINSEN, MARK C.,

Chapter 7
Bky Case No. 04-34274

Debtor.

**NOTICE OF HEARING AND MOTION
OBJECTING TO EXEMPT PROPERTY**

TO: THE COURT, UNITED STATES TRUSTEE, THE DEBTOR, HIS ATTORNEY AND OTHER PARTIES IN INTEREST:

1. Patti J. Sullivan, Trustee of the bankruptcy estate of the above-named debtor, moves the court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 2:00 p.m. on October 20, 2004 in Courtroom No. 228A, at the United States Court House, 316 N Robert St., St. Paul, Minnesota 55101.

3. Any response to this motion must be filed and delivered not later than 2:00 p.m. on October 15, 2004, which is three days before the time set for the hearing, (excluding intermediate Saturdays, Sundays, and legal holidays), or filed and served by mail not later than October 12, 2004, which is seven business days before the time set for the hearing (excluding intermediate Saturdays, Sundays, and legal holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334, Bankruptcy Rules 4003, 5005, 9013 and 9014, Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on July 23, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. §522 and Bankruptcy Rule 4003 and Local Rule 1070-1. This motion is filed under Bankruptcy Rule 9014 and Local Rules 9001-1 to 9006-1 and 9013-1 to 9013-5. Movant requests relief with respect to debtor's claim for exemptions.

The debtor has claimed the following assets as exempt under Minn. Stat. 550.37, subd. 13 and Minn. Stat. 571.922 – Unity One Federal Credit Union in the amount of \$1.00 and US Bank in the amount of \$600.00 (the “Bank Accounts”);

The Trustee objects to the debtor’s claimed exemption in the Bank Accounts on the basis that: (1) Minn. Stat. 550.37, subd. 13 and Minn. Stat. 571.922 do not provide for an exemption for funds in a bank account. Such exemption would be allowed only to the extent that the debtor establishes the funds in the accounts are “earnings”. Minnesota law permits debtors to exempt all earnings not subject to garnishment. Minn. Stat. 571.922 limits the amount that may be garnished to 25% of the debtor’s disposable earnings. The Trustee does have information indicating the source of deposits in the checking account in the amount of \$810.64 is from the debtor’s business account. However, the debtor has claimed as exempt an additional amount for wages in the amount of \$391.00. The Trustee has no objection to the claim of exemption for wages in the amount of 391.00. However, based on information provided, it does not appear the debtor should be allowed to exempt an additional \$610.00 in wages inasmuch as this amount plus the wages of \$391.00 exceeds the actual amount of funds on deposit in the debtor’s checking account. The Trustee does not have available information to determine how the \$391.00 was derived.

WHEREFORE, the Trustee moves the court for an order sustaining Trustee’s objection to claimed exempt property and such other relief as may be just and equitable.

Dated this 24th day of September 2004.

ULVIN AND SULLIVAN ATTORNEYS, P.A.

/e/ Patti J. Sullivan

Patti J. Sullivan
Trustee in Bankruptcy
Attorney ID No. 170124
P.O. Box 16406
St. Paul, MN 55116
(651) 699-4825

VERIFICATION. I, Patti J. Sullivan, Movant, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated this 24th day of September 2004.

/e/ Patti J. Sullivan

Patti J. Sullivan, Trustee

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In the Matter of:

PRINSEN, MARK C.,

Bky No. 04-34274

Debtor.

UNSWORN CERTIFICATE OF SERVICE

I, Joeline Kissinger, declare under penalty of perjury that on the 24th day of September, 2004, I mailed a copy of the attached Notice of Hearing and Motion Objecting to Exempt Property and Proposed Order by first class mail postage prepaid to each entity named below or on the statement attached at the address stated below or in said attachment for each entity:

United States Trustee
1015 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415

John A. Hedback Esq
Hedback, Arendt & Carlson PLLC
2855 Anthony Ln S #201
St. Anthony, MN 55418

Mark C. Prinsen
16414 Hutchinson Dr
Lakeville, MN 55044

Executed on this 24th day of September 2004.


Joeline Kissinger

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: PRINSEN, MARK C.,

Chapter 7
Bky Case No. 04-34274

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ORDER

At St. Paul, Minnesota, October 20, 2004.

Upon the objection to Claimed Exempt Property filed by the Trustee and upon all the files and records of the proceedings herein. Appearances were as noted upon the record.

IT IS HEREBY ORDERED:

That the Trustee's objection is sustained, and

1. The Debtors' claim of exemption in the following are hereby disallowed:
 - (a) Unity One Federal Credit Union in the amount of \$1.00; and
 - (b) US Bank in the amount of \$600.00.

Honorable Dennis D. O'Brien
United States Bankruptcy Judge